

**Response Under 37 CFR § 1.116 \* -- Expedited Procedure -- Examining Group 3727**  
**Docket No.: 1324.034**  
**Serial Number: 10/010,745**

### **REMARKS**

Without acquiescing to the propriety of the rejections in the Final Office Action dated October 6, 2003, claim 1 has been amended. Entry of these amendments, reconsideration of the application, and allowance of all claims pending herein are respectfully requested in view of the remarks below. Claims 1-7 and 16 are now pending and under consideration.

#### **§ 102 Rejections:**

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bosch (U.S. Patent No. 3,768,638). Specifically, the Office Action alleges that Bosch discloses a feeding bottle having a bottle body 1 with an air inlet 5, and a stopper assembly 6 being mounted to the bottle body, which includes a stopper manually movable to close and open the air inlet. Also, the Office Action alleges that the bottle in this reference is held in one hand in use and the stopper is operable by one finger of the hand. This reference discloses a cap which is alleged by the Office Action to be a stopper retainer movable between a first position (when the cap engages with the bottle) which prevents movement of the stopper from the closed position to the open position, and a second position (when the cap is removed from the bottle) in which the cap permits movement of the stopper between the open and closed positions.

Amended claim 1 of the present application recites a feeding bottle having a bottle body and a stopper assembly. The bottle body includes an open end for mounting a teat assembly and an air inlet. The stopper assembly is mounted to the bottle body and includes a stopper manually movable between a closed position in which the air inlet is closed by the stopper and an open position in which the air inlet is open. The stopper assembly further includes a stopper retainer movable between a first position in which the stopper retainer prevents movement of the stopper from the closed position to the open position and a second position in which the stopper retainer permits movement of the stopper between the open position and the closed position. The stopper retainer is separate from the stopper. Further, the stopper retainer is attached to the bottle body in the first position and in the second position.

Bosch discloses a feeding bottle having a bottle body 1 and an air inlet 5. A plunger (alleged to be a stopper assembly in the Office Action) is manually movable to close and open air inlet 5. The stopper is biased to the closed position by a spring 9. However, there is no

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disclosure of the stopper assembly having a stopper retainer movable between a first position attached to the bottle body and a second position attached to the bottle body wherein the first position prevents movement of the stopper from a closed position to an open position and the second position permits movement of the stopper between the open position and the closed position. Instead, the air inlet 5 may be opened by a user manually pushing on plunger 6, and a cap is configured to be threaded onto a bottom of bottle 1 in Bosch to prevent the valve from being depressed inadvertently, but there is no disclosure of a stopper retainer attached to a bottle body in the first position and second position as described above. More specifically, the alleged second position of the cap in Bosch, i.e., with the cap removed from the bottle body, does not disclose a stopper retainer which is attached to a bottle body, and which allows movement of a stopper between an open position and closed position, because the alleged second position requires the cap to be separated from the bottle body. This is in contrast to the recitation in claim 1 of a stopper retainer which is attached to a bottle body in a first position and a second position. Thus, because the features of claim 1 (e.g., a stopper retainer which is attached to a bottle body in the described second position) are not identically disclosed by Bosch, it is respectfully submitted that claim 1 cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Claims 1-7 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lowe et al., (U.S. Patent No. 1,976,450). The Office Action alleges that Lowe et al. includes a feeding bottle having a bottle body with an air inlet and a stopper assembly mounted to the bottle body. Also, an elastic band is alleged to be both a stopper and a stopper retainer. Specifically, a portion of the band covering an air inlet is alleged to be a stopper while the elastic band as a whole is alleged to be a stopper retainer. FIGS. 1 and 3 disclose an elastic band having an aperture which may be aligned with an air inlet. FIG. 12 discloses an elastic band without an inlet but which includes a pivot arm allowing the elastic band to be moved away from the inlet such that air may pass therethrough. The Office Action appears to allege that FIG. 1 discloses the first position recited in claim 1 while FIG. 12 discloses the second position recited in claim 1.

Lowe et al., discloses an elastic band which covers an inlet in a bottle and which is connected to a pivot arm as depicted in FIG. 12. The pivot arm may be depressed toward the bottle to cause a gap between the elastic band and the aperture thereby allowing air to flow through such inlet. FIG. 1 of this references discloses an elastic band having an aperture

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allowing air to flow through the aperture and an inlet of the bottle, when the inlet and aperture are aligned. The Office Action appears to allege that FIGS. 1 and 12 of this reference disclose a single stopper retainer although they are separate embodiments of the invention disclosed therein which accomplish an objective in different manners. More specifically, FIG. 1 accomplishes the objective of allowing air to flow into the bottle by having an opening therein which may be aligned with an inlet of the bottle, while the embodiment disclosed in FIG. 12 utilizes a pivot arm to allow the elastic band to moved away from an inlet of the bottle to allow air to pass by said elastic band and through such inlet. Thus, neither the embodiment disclosed in FIG. 1, nor the one disclosed in FIG. 12, can identically disclose the subject matter recited in claim 1, because neither embodiment by itself is even alleged to teach both the first and second positions recited in claim 1.

Further, even if the embodiments disclosed in FIGS. 1 and 12 of this reference were considered to be a single embodiment, there is no disclosure of a stopper retainer separate from a stopper which may prevent movement of the stopper between a closed position and an open position. Instead, even if the elastic bands were considered to be a stopper and a stopper retainer, they could not be considered to be a stopper retainer which is separate from a stopper. More particularly, because the elastic band is alleged to be both a stopper and stopper retainer, it could not be a stopper retainer separate from a stopper. Thus, because Lowe et al. does not identically disclose the features of claim 1 of the present application, claim 1 is not anticipated by this reference. Further, the dependent claims are believed not to be anticipated for these same reasons and for their own additional features.

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**CONCLUSION**

It is believed that the application is in condition for allowance, and such action is respectfully requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

***Respectfully submitted,***



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Victor A. Cardona, Esq.  
Attorney for Applicant(s)  
Registration No. 44,589

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**HESLIN ROTHENBERG FARLEY & MESITI, P.C.**  
5 Columbia Circle  
Albany, New York 12203  
Telephone: (518) 452-5600  
Facsimile: (518) 452-5579